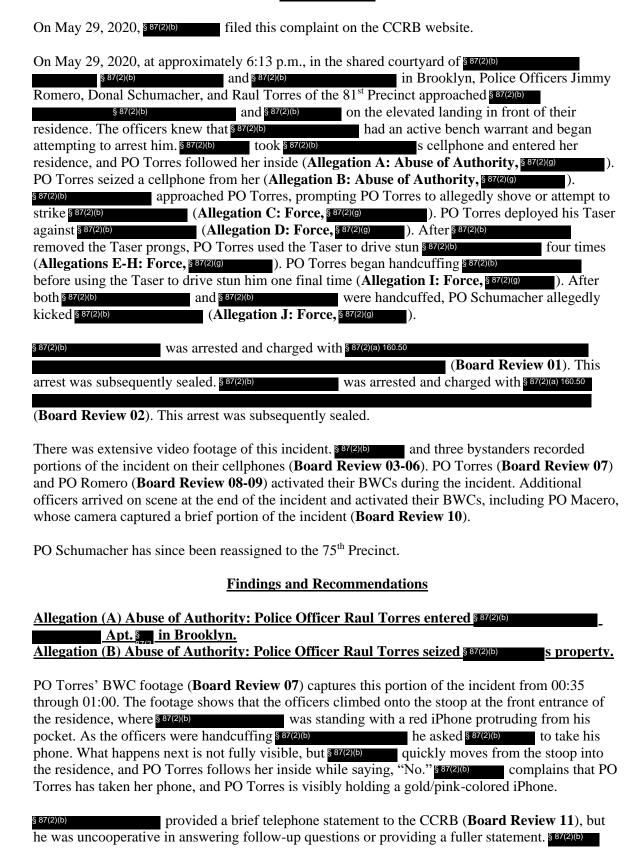
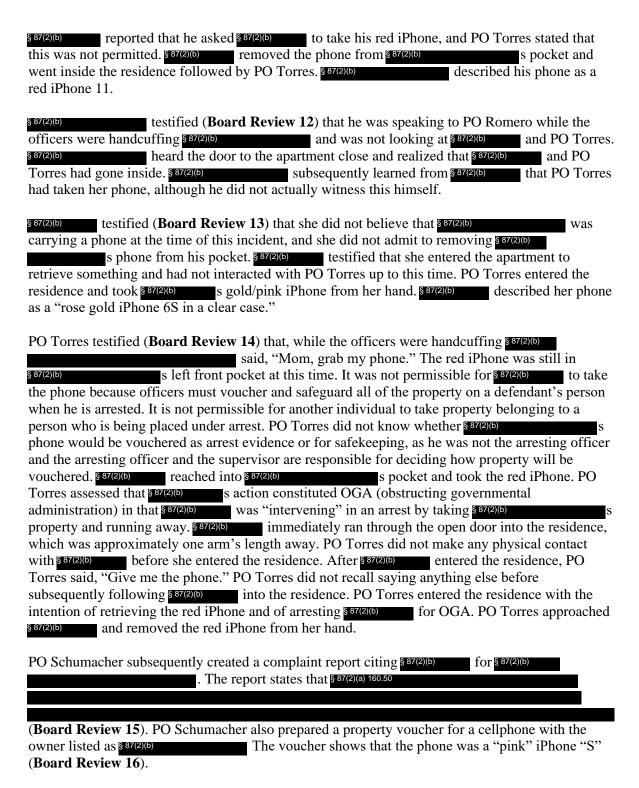
CCRB INVESTIGATIVE RECOMMENDATION

Investigator:	Теа	ım:	CCRB Case #:	☑ Fo	rce		Discourt.	☐ U.S.
Daniel Giansante	Squ	ad #5	202003690	☑ Ab	use		O.L.	☐ Injury
Incident Date(s) Location		cation of Inciden	ion of Incident:		inct:	18	Mo. SOL	EO SOL
Friday, 05/29/2020 6:13 PM § 87(2)(b)			§ § 87(2)(b)		1	11.	/29/2021	5/4/2022
Date/Time CV Reported	CV	Reported At:	How CV Reported:	Dat	te/Time	Rece	ived at CCI	RB
Fri, 05/29/2020 9:23 PM	CC	RB	On-line website	Fri,	05/29/2	2020	9:23 PM	
Complainant/Victim	Type	Home Ad	dress					
Witness(es)		Home Ad	dress					
Subject Officer(s)	Shield	TaxID	Command					
1. POM Donal Schumacher	19766	959213	081 PCT					
2. POM Raul Torres	24953	958127	081 PCT					
Witness Officer(s)	Shield No	Tax No	Cmd Name					
1. POM Jimmy Romero	05585	962062	081 PCT					
2. POM Ryan Macero	11532	966179	081 PCT					
Officer(s)	Allegation				Inves	stiga	tor Recon	nmendation
A.POM Raul Torres	Abuse: Police		orres entered ^{§ 87(2)(b)} n Brooklyn.					
B.POM Raul Torres	Abuse: Police property.	e Officer Raul To	orres seized § 87(2)(b)	S				
C.POM Raul Torres	Force: Police § 87(2)(b)	Officer Raul To	rres used physical force	e agains	t			
D.POM Raul Torres		Officer Raul To evice on § 87(2)(b)	rres used a non-lethal					
E.POM Raul Torres		Officer Raul To evice on § 87(2)(b)	rres used a non-lethal					
F.POM Raul Torres		Officer Raul To evice on § 87(2)(b)	rres used a non-lethal					
G.POM Raul Torres		Officer Raul To evice on § 87(2)(b)	rres used a non-lethal					
H.POM Raul Torres		Officer Raul To evice on § 87(2)(b)	rres used a non-lethal					
I.POM Raul Torres		Officer Raul To evice on § 87(2)(b)	rres used a non-lethal					
J.POM Donal Schumacher	Force: Police against § 87(2)(t		chumacher used physic	al force				

Case Summary

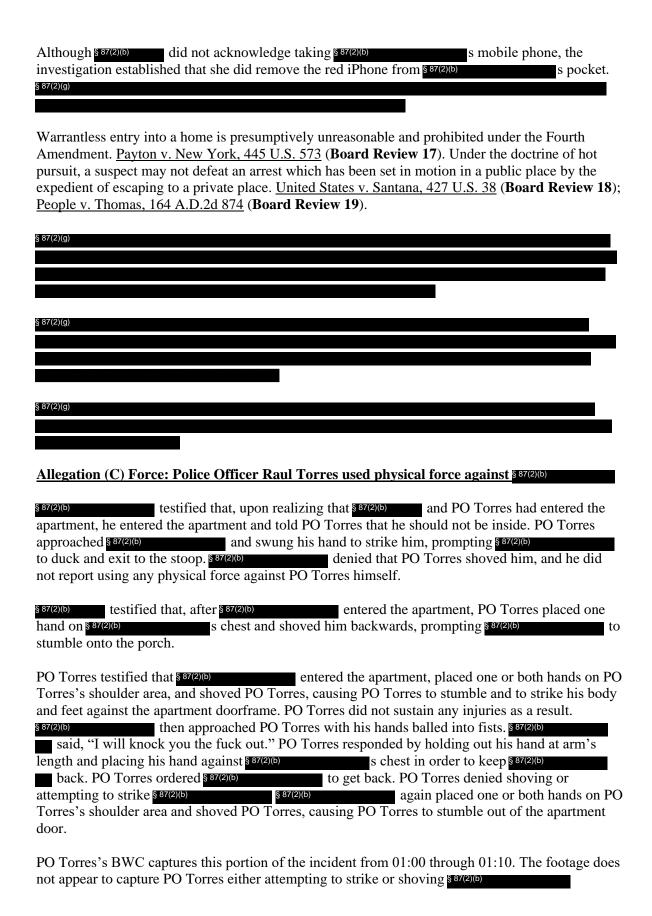


CCRB Case # 202003690

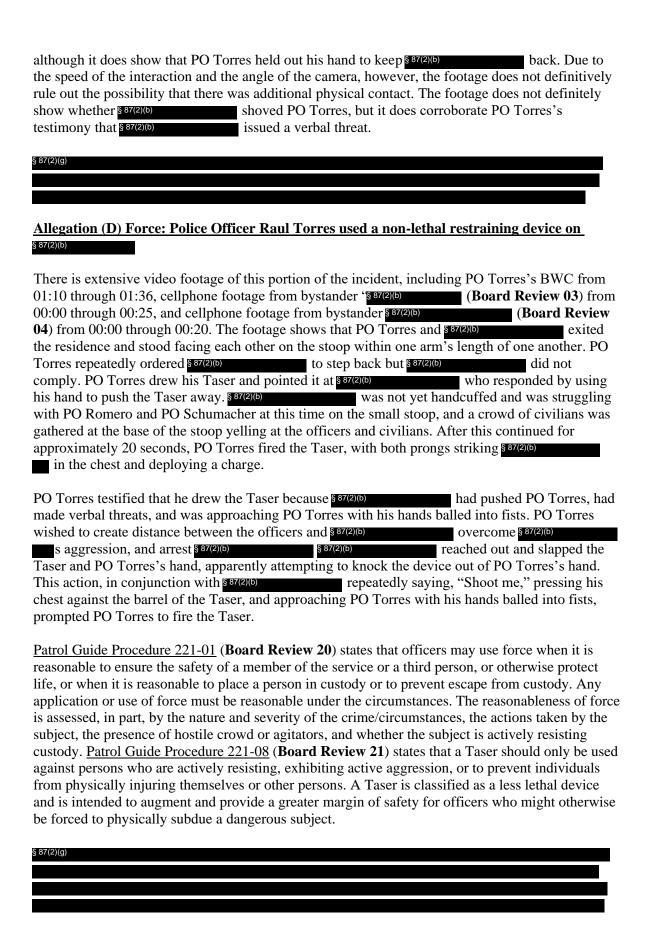


An examination of Apple's iPhone product lines shows that there is no "S" model for the iPhone 11, while there is an iPhone 6S. Moreover, the iPhone 11 is available in six colors: purple, yellow, green, white, black, and red. The red color is clearly red and would not be mistaken for pink. On the other hand, the iPhone 6S is available in four colors: silver, gold, space grey, and rose gold. The rose gold color could easily be described as pink (see **Board Review 30** for images of the available colors for both models).

Page 2



CCRB CTS – Confidential Page 3



§ 87(2)(g)
Allegation (E) Force: Police Officer Raul Torres used a non-lethal restraining device on ST(2)(0)
For some of the time, PO Torres even held \$\frac{87(2)(b)}{2}\$ against the stoop's railing with his free hand while drive stunning him and telling him to "back up." \$\frac{87(2)(b)}{2}\$ generally attempted to avoid being stunned by the Taser—he pulled away from PO Torres, and he attempted to push the Taser away from him so the electrodes would not touch him. After 35 seconds, PO Torres first ordered \$\frac{87(2)(b)}{2}\$ to put his hands behind his back, and \$\frac{87(2)(b)}{2}\$ immediately complied. PO Torres held \$\frac{87(2)(b)}{2}\$ s hands behind his back and escorted him to the edge of the stoop to handcuff him.
testified that, after PO Torres shot him with the Taser, he stood up, pulled the wires out of his chest, and began to walk away from PO Torres. PO Torres pursued \$87(2)(b) and deployed approximately nine to ten drive stuns, prompting \$87(2)(b) to move away and to attempt to grab the Taser. This continued until \$87(2)(b) turned around and PO Torres handcuffed him.
PO Torres testified that he deployed drive stuns against \$\frac{\\$37(2)(b)}{\\$27(2)(b)}\$ in order to gain \$\frac{\\$37(2)(b)}{\\$37(2)(b)}\$ s compliance. PO Torres confirmed that he ordered \$\frac{\\$37(2)(b)}{\\$37(2)(b)}\$ to "get back" while deploying the drive stuns and that he did not recall issuing any other commands. PO Torres specifically recalled deploying four drive stuns before subsequently beginning to handcuff \$\frac{\\$37(2)(b)}{\\$37(2)(b)}\$ During two of the four drive stuns, \$\frac{\\$37(2)(b)}{\\$37(2)(b)}\$ placed his hand on the Taser, apparently in an attempt to grab it, and he scratched PO Torres's hand with his fingernail while doing so.

CCRB CTS – Confidential Page 5

The Taser Data Sheet for PO Torres's Taser (**Board Review 22**) documents that PO Torres deployed the Taser four times over the 18-second period after he ejected the cartridge, which occurred at 18:17:42. Each cycle lasted for four to five seconds. The Taser Data Sheet does not record whether or for how long the Taser made contact with [S87(2)(5)] s body during each cycle.

Patrol Guide Procedure 221-08 states that a Taser should only be used against persons who are actively resisting, exhibiting active aggression, or to prevent individuals from physically injuring themselves or other persons. The Procedure defines active resisting as physically evasive movements to defeat a member of the service's attempt at control, including bracing, tensing, pushing, or verbally signaling an intention to avoid or prevent being taken into or retained in custody. The procedure defines active aggression as the threat or overt act of an assault (through physical or verbal means), coupled with the present ability to carry out the threat or assault, which reasonably indicates that an assault or injury to any person is imminent. Officers should consider that exposure to the CEW for longer than fifteen seconds (whether due to multiple applications or continuous cycling) may increase the risk of death or serious injury. All applications must be independently justifiable, and the risks should be weighed against other force options.

§ 87(2)(g)	
§ 87(2)(g)	
§ 87(2)(g)	
§ 87(2)(g)	

Allegation (I) Force: Police Officer Raul Torres used a non-lethal restraining device on

There is extensive video footage of this portion of the incident, including PO Torres's BWC from 02:25 through 02:45 (Board Review 07), cellphone footage from bystander '\$87(2)(5)
(Board Review 03) from 01:12 through 01:32, cellphone footage from bystander [\$87(2)(b)] (Board Review 04) from 01:05 through 01:25, and cellphone footage filmed by [\$87(2)(b)] (Board Review 05) from 00:35 through 00:55. The footage shows that PO Torres ordered [\$87(2)(b)] to put his hands behind his back and to walk forward to stand against a wall. [\$87(2)(b)] complied with both commands. While PO Torres was holding [\$87(2)(b)] shands behind his back—but before he had begun to apply the handcuffs—bystanders threw two objects at the officers on the stoop, including a glass bottle which shattered. [\$87(2)(b)] made a sudden movement forward, prompting PO Torres to deploy one final drive stun.
testified that he knew that bystanders were throwing objects onto the porch, although he did not know whether any of these items struck anyone or realize that they included a glass bottle until after the incident. [867(2)(0)] did not testify that he pulled away from PC Torres or otherwise moved immediately prior to the final drive stun.
PO Torres testified that, after the glass bottle struck the stoop, \$87(2)(0) pulled away from PO Torres, but did not break PO Torres's grip on his arm. PO Torres deployed a drive stun against \$87(2)(0) and \$87(2)(0) stopped pulling away. PO Romero approached and grasped hold of \$87(2)(0) and PO Torres and PO Romero handcuffed
Patrol Guide Procedure 221-08 states that a Taser should only be used against persons who are actively resisting, exhibiting active aggression, or to prevent individuals from physically injuring themselves or other persons. The Procedure defines active resisting as physically evasive movements to defeat a member of the service's attempt at control, including bracing, tensing, pushing, or verbally signaling an intention to avoid or prevent being taken into or retained in custody.
§ 87(2)(g)
Allegation (J) Force: Police Officer Donal Schumacher used physical force against \$87(2)(5)
testified that, after the officers had handcuffed \$87(2)(b) and escorted him off of the stoop, PO Schumacher and PO Macero, who had just arrived on the scene, grasped \$87(2)(b) s arms and stood at the top of the stairs, apparently to escort \$87(2)(b) once in his lower leg, in the manner that someone would kick a soccer ball. \$87(2)(b) assessed that PO Schumacher was attempting to force \$87(2)(b) down the stairs.
In his telephone statement, \$87(2)(b) did not recount that PO Schumacher kicked him. When asked directly whether it occurred, \$87(2)(b) responded that PO Macero attempted to trip him as he was walking down the stairs.

any more questions about this because he ended the call and was subsequently uncooperative in providing additional testimony.

There is extensive video footage of this portion of the incident, including PO Macero's BV	VC from
00:50 through 02:30 (Board Review 10), cellphone footage from bystander '\$87(2)(b)	
	oard
Review 04 from 3:15, and cellphone footage filmed by a neighbor named (\$87(2)(b) (Board)	Review
06) from 01:20. The footage shows PO Schumacher, PO Macero, and §87(2)(b)	
standing at the top of the stairs before walking down and off the stoop. At no point does PC)
Schumacher kick § 87(2)(b)	
S DZ/QVA)	
§ 87(2)(g)	
Civilian and Officer CCRB Histories	
has been party to eight previous CCRB complaints and has been name	ned as a
victim in six allegations (Board Review 23).	icu as a
© §87(2)(b)	
has been party to six previous CCRB complaints and has been named	as a
victim in nine allegations (Board Review 24).	
○ § 87(2)(b)	
has been party to six previous CCRB complaints and has been named as a viction	im in 10
allegations (Board Review 25).	
S 87(2)(b)	
PO Schumacher has been a member of service for six years and has been a subject in one p	revious
CCRB complaint and one allegation, which was not substantiated.	

- PO Torres has been a member-of-service for six years and has been a subject in two previous CCRB complaints and four allegations, one of which was substantiated.
 - 201900826 involved an allegation of entry of premises against PO Torres. The Board recommended Command Discipline B and the NYPD imposed Command Discipline B.

Mediation, Civil, and Criminal Histories

- This complaint was not suitable for mediation.
- filed a Notice of Claim with the City of New York claiming personal and physical injuries; an unlawful seizure; false arrest and imprisonment; malicious prosecution; abuse of process; negligence; intentional and negligent infliction of emotional distress; harassment; unconstitutional conditions of confinement; and to a deprivation of, his constitutional, civil and common law rights and seeking \$1,000,000 as redress (Board Review 26). A 50H hearing was held

[§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]		
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Squad:	<u>5</u>		
Investigator:	DG	_IM Giansante for SI Phillips	_September 22, 2021_
υ .	Signature	Print Title & Name	Date
	C		
Squad Leader:	Daniel Giansante_	_IM Daniel Giansante	_September 22, 2021_
•	Signature	Print Title & Name	Date
Reviewer:			
	Signature	Print Title & Name	Date
	_		